OAKVILLE

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2024-187

A by-law to regulate the towing of any vehicle without the vehicle owner's consent from land in the Town of Oakville

WHEREAS subsection 101(1) of the *Municipal Act, 2001,* S.O. 2001, c.25, as amended ("Municipal Act") provides that if a municipality passes a by-law regulating or prohibiting the parking or leaving of a motor vehicle on land, it may provide for the removal and impounding or restraining and immobilizing of any vehicle, at the vehicle owner's expense, parked or left in contravention of the by-law;

WHEREAS subsection 101(2) of the Municipal Act provides that a municipality may enter on land at reasonable times for the purposes described in subsection 101(1);

WHEREAS subsection 101(3) of the Municipal Act provides that if signs are erected on land specifying conditions on which a motor vehicle may be parked or left on the land or regulating or prohibiting the parking or leaving of a motor vehicle on the land, a motor vehicle parked or left on the land contrary to the conditions or prohibition shall be deemed to have been parked or left without consent;

WHEREAS subsection 101(4) of the Municipal Act provides that if it is alleged in a proceeding that a by-law referred to in this section has been contravened, the oral or written evidence of a police officer, police cadet or municipal law enforcement officer is receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated in respect of, (a) the ownership or occupancy of the land; (b) the absence of the consent of the owner or occupant; and (c) whether any person is an occupant or is an owner;

WHEREAS subsection 11(2) of the Municipal Act provides that a municipality may pass by-laws respecting the health safety and well-being of persons and the protection of persons and property, including consumer protection;

WHEREAS subsection 11(3) of the Municipal Act provides that a local municipality may pass by-laws respecting parking and traffic on highways and parking except on highways;

WHEREAS section 100 of the Municipal Act provides that a local municipality may, in respect of land not owned or occupied by the municipality that is used as a parking lot, regulate or prohibit the parking or leaving of motor vehicles on that land without the consent of the owner of the land or regulate or prohibit traffic on that land

if a sign is erected at each entrance to the land clearly indicating the regulation or prohibition;

WHEREAS section 100.1 of the Municipal Act provides that a local municipality may, in respect of land not owned or occupied by the municipality, regulate or prohibit the parking or leaving of motor vehicles without the consent of the owner of the land;

WHEREAS the Council for the Corporation of the Town of Oakville ("Council") has passed by-laws pursuant to the provisions of the Municipal Act that, among other things, regulate the parking, stopping or leaving of vehicles on private property and on municipal land;

WHEREAS Council seeks to regulate the removal and impoundment of vehicles without the vehicle owner's consent and at the vehicle owner's expense that are parked on private property or on municipal land in contravention of the by-laws;

WHEREAS subsection 425(1) of the Municipal Act provides that a municipality may pass by-laws providing that a person who contravenes any by-law of the municipality passed under the Act is guilty of an offence;

WHEREAS subsection 434.1(1) of the Municipal Act provides that a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the Municipal Act;

WHEREAS Council, for the purpose of consumer protection, is desirous of prohibiting the predatory and fraudulent towing of vehicles without the vehicle owner's consent from land, including private property and other land;

WHEREAS the Province of Ontario passed the *Towing and Storage Safety and Enforcement Act, 2021,* S.O. 2021, c. 26, Sched. 3 (TSSEA) regulating and certifying the provision of towing and impounding services in the Province of Ontario which in part helps to prevent and discourage predatory and fraudulent towing practices in the Province of Ontario and the Town of Oakville;

WHEREAS section 20 of TSSEA provides that there should be no provision of towing or impounding service to a vehicle without the vehicle owner's consent unless the motor vehicle is being impounded or stored at the direction of a police officer or other person with authority to direct impoundment or storage which in part also helps to prevent and discourage predatory and fraudulent towing and impounding practices in the Province of Ontario and the Town of Oakville;

WHEREAS the Town of Oakville wishes to complement the provisions of TSSEA by prohibiting predatory and fraudulent towing in the Town of Oakville;

WHEREAS Council, for the purpose of consumer protection, is desirous of eliminating or overriding any common law right there may be related to trespass that enabled the towing or impounding of vehicles without the vehicle owner's consent such that the towing or impounding of vehicles in the Town of Oakville without the vehicle owner's consent from the date of passage of this By-law must be in accordance with the provisions of this By-law, TSSEA or the Trespass to Property Act. R.S.O. 1990, c. T.21;

COUNCIL ENACTS AS FOLLOWS:

1. **Definitions**

(1) In this By-law:

"Administrative Penalties for Non-Parking Violations and Orders By-law" means the Town's By-law 2021-038;

"**Director**" means the Director of Municipal Enforcement Services, or designate;

"**Impounding"** means the receiving and holding of vehicles towed without the vehicle owner's consent pursuant to this By-law;

"**Land**" for the purpose of this By-law means private property or municipal land;

"**Laneway**" means improved land adjacent to a highway which provides access from the highway to adjacent property;

"Lifting Charge" means a fee which may be imposed by a tow operator or tow truck driver to release a vehicle where the tow operator or tow truck driver has attended at a location for the purposes of towing such vehicle from land and has lawfully lifted the vehicle or has lawfully placed it in a position where it is capable of being physically removed from the land, but has not yet removed the vehicle from the land;

"**Mobile Compliance Officer**" for the purpose of this By-law means a person employed by the Town who has been appointed by the Director to enforce the by-laws of the municipality and as a provincial offences officer;

"**Municipal Land**" means any land owned or occupied by the Town;

“**Municipal Law Enforcement Officer"** means a person not employed by the Town who has been appointed by the Director as a municipal law enforcement officer to conduct parking enforcement on private property;

“**Owner**” means the person(s) who is the registered owner(s) of any land in the Land Registry Office of Ontario from which a vehicle is towed or is to be towed without the vehicle owner’s consent;

“Park or Parking” when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;

“**Parking Administrative Penalties By-law”** means the Town’s Parking Administrative Penalties By-law 2015-071;

“Parking Lots” means any land or structures designed or designated specifically for the purpose of the parking of vehicles to which any person with a vehicle has access, whether on payment of a fee or gratuitously, specifically for the purpose of parking that vehicle;

“**Parking Penalty Notice**” means a notice issued pursuant to the provisions of the Parking Administrative Penalties By-law;

“**Penalty Notice**” means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law;

“**Person**” means an individual, firm, corporation, company, sole proprietorship, association or partnership;

“**Police Officer**” means a Halton Regional Police Service officer;

“**Private Property**” means any land not owned or occupied by the municipality;

“Rates and Fees Schedule” means the Town’s current rates and fees schedule approved by Council as part of the annual budget approval process;

“Tow” or “**Towing”** means the removal and impounding of a vehicle without the vehicle owner’s consent and at the vehicle owner’s expense in accordance with this By-law, and includes:

(a) the transportation of motor vehicles;

(b) any ancillary activity such as lifting a motor vehicle for the purposes of loading, towing or transporting it or placing it onto a truck or trailer for the purpose of towing or transporting; and
(c) any other prescribed activity under TSSEA;

"**Tow Operator**" means a person who, directly or indirectly, alone or with others, operates, manages, supervises, runs or directs the offer of or provision of towing services, and includes:

(a) an operator, as defined in subsection 16 (1) of the *Highway Traffic Act*, of a tow truck, and
(b) any other prescribed person under TSSEA;

"**Town**" means The Corporation of the Town of Oakville or the geographic area of the town of Oakville, as the context requires;

"**Trespass to Property Act**" means the *Trespass to Property Act*, R.S.O. 1990, c. T.21;

"**TSSEA**" means the *Towing and Storage Safety and Enforcement Act, 2021*, S.O. 2021, c. 26, Sched. 3;

"Vehicle Owner" for the purpose of this By-law means the owner of a vehicle and includes the driver of the vehicle or other person in possession of the vehicle with or without the vehicle owner's consent;

"**Vehicle**" means a motor vehicle as defined in the *Highway Traffic* Act, R.S.O. 1990, c. H.8;

"Waiting Period" means the length of elapsed time between the issuance of a parking penalty notice and the authorization for a vehicle to be towed without the vehicle owner's consent.

2. Elimination of any Common Law Right Under Trespass to Remove or Impound any Vehicle Without the Vehicle Owner's Consent

(1) No person who is the owner of any land, or an employee, contractor or agent of the owner of any land shall tow or authorize the towing of any vehicle parked on the land without the consent of the vehicle owner unless doing so in accordance with the provisions of this By-law or in accordance with the provisions of the Trespass to Property Act.

(2) For the purpose of clarity, any common law right to tow or impound a vehicle from land without the consent of the vehicle owner strictly as a matter of

trespass no longer exists in the Town as of the effective date of this By-law. Any towing of a vehicle from land without the consent of the vehicle owner can only be done in the Town in accordance with the provisions of this By-law or in accordance with the Trespass to Property Act.

3. Applicable By-laws

(1) This By-law applies to the towing of a vehicle without the vehicle owner's consent that is parked, stopped or left in contravention of the following by-laws, as amended from time to time:

(i) By-law 1965-10, as amended, providing for the use of parking meters and parking payment machines;
(ii) By-law 1979-59, as amended, regulating the parking of vehicles on Town parking lots controlled by a parking payment machine or parking permit;
(iii) By-law 1981-65, as amended, prohibiting the parking or leaving of motor vehicles on private property without the consent of the owner or occupant of the property;
(iv) By-law 1981-66, as amended, designating certain private roadways as fire routes;
(v) Traffic By-law 1984-1, as amended;
(vi) Municipal Right-of-Way By-law 2024-002;
(vii) Parks By-law 2013-013, as amended;
(viii) Zoning By-law 2014-014, as amended;
(ix) Zoning By-law 2009-189, as amended;
(x) EV Charging Station By-law 2020-084; and
(xi) Regional Municipality of Halton Traffic By-law 1984-1, as amended

4. Administrative Penalties for Non-Parking Violations and Orders By-law

(1) This By-law is a designated by-law under the Administrative Penalties for Non-Parking Violations and Orders By-law.

5. Prohibitions

(1) No person shall tow or authorize the towing of a vehicle from land without the consent of the vehicle owner unless the tow is caused or authorized by a Municipal Law Enforcement Officer, Mobile Compliance Officer, police officer or the Director in accordance with the provisions of this By-Law or under the Trespass To Property Act.

(2) No Municipal Law Enforcement Officer, Mobile Compliance Officer, police officer or the Director shall cause or authorize the towing of a vehicle from land without the consent of the vehicle owner unless:

(a) the vehicle is parked, stopped, standing or left as the case may be, in contravention of a Town by-law identified in subsection 3(1) of this By-law;

(b) the boundaries of the land are clearly defined;

(c) signs have been posted in accordance with section 6 of this By-law;

(d) a parking penalty notice is first issued by the Municipal Law Enforcement Officer, Mobile Compliance Officer, police officer or the Director in respect of the vehicle; and

(e) a waiting period of thirty (30) minutes has expired, with the exception of vehicles parked, stopped, standing, or left in signed fire routes, in construction zones, that interfere with snow clearing on municipal land, in designated accessible parking spaces, that are blocking a laneway, loading docks, ingress and/or egress points or driveway access, on municipal rights-of-way or on municipal land for community or special events, or in emergency situations, where no waiting period is required.

(3) If the tow is being authorized by a Municipal Law Enforcement Officer, the Municipal Law Enforcement Officer shall first consult with and receive approval from the Director prior to the tow being authorized.

(4) A Municipal Law Enforcement Officer, Mobile Compliance Officer or the Director shall advise the Halton Regional Police Service of the impending tow of the vehicle upon authorizing same and prior to the actual tow occurring.

(5) No Municipal Law Enforcement Officer, Mobile Compliance Officer, police officer or the Director shall tow or authorize the towing of any vehicle parked on the land where there is no signage or where there is inadequate signage in accordance with section 6 of this By-law.

6. Signage

(1) Every owner of land where the towing of vehicles without the consent of the vehicle owner may take place shall install or direct the installation of permanently mounted legible double sided signs as follows:

(a) at all public entrances to the land so that the signs face outward toward the street and are visible before and upon entering the land;

(b) within the land so that the signs face toward the land;

(c) at a sufficient height from ground level so as to be easily viewed by motorists entering or parking on the land;

(d) that are professionally made and not handwritten;

(e) with lettering in a contrasting colour to the sign's background;

(f) made of durable material and able to withstand wind gusts, sunlight and other weather conditions; and

(g) made of reflective material if the applicable parking rules are to apply at night.

(2) Despite subsection 6(1), such signage is not required to be installed in municipal rights-of-way or on a driveway to a private dwelling.

(3) The signs required by subsection 6(1) of this By-law shall be installed in clearly visible locations that are not obstructed from view.

(4) The signs required by subsection 6(1) of this By-law shall be as shown on Schedule 1 of this By-law and shall include:

(a) an "authorized parking only" statement;

(b) the "tow away" graphic;

(c) a statement that unauthorized vehicles may be tagged and/or towed at the vehicle owner's expense;

(d) the name and telephone number of the owner of the land or employee, agent or contractor of the owner of the land; and

(e) applicable Town by-law number.

(5) Subsection 6(4) does not apply to any signs respecting towing that have been installed on land prior to the date this By-law comes into force, however, such signs shall comply with subsection 6(4) of this By-law by 11:59 p.m. on December 31, 2027.

(6) Any failure by the owner of the land to install or have installed the necessary signage in accordance with section 6 of this By-law and in compliance with all of the provisions of section 6 of this By-law is a violation of this By-law.

(7) Any signs installed in accordance with section 6 of this By-law shall be kept in good condition and repair by the owner of the land concerned. Any failure by the owner of the land to keep any signs installed in good condition and repair is a violation of this By-law.

(8) A sign is deemed to comply with the requirements of subsection 6(4) of this By-law if the sign, in addition to the required statements mentioned in subsection 6(4) also contains a statement that parking is restricted to a specific duration or to a specified period of any day or to specified days of the week.

7. Maximum Towing Rates

(1) No tow operator shall charge an amount for towing that exceeds the rates contained in the schedule of maximum rates provided to the Ministry of Transportation by the tow operator; as posted on the Ministry's website.

(2) A tow operator may charge a maximum lifting fee of $150 to the vehicle owner.

(3) A charge for either towing or lifting may be levied, but not both.

(4) Any and all towing or lifting costs shall be at the expense of the vehicle owner.

(5) A tow operator must release a vehicle once it has been lifted if the vehicle owner returns to the land before the vehicle has been removed from the land. The lifting charge set out in subsection 7(2) may be applied.

(6) A tow operator is not entitled to charge any amount, whether fixed or calculated at a rate based on any unit of time, for the waiting period.

(7) A tow operator who conducts a tow in accordance with this By-law shall, upon demand from the vehicle owner, immediately provide a receipt detailing all charges and fees associated with the tow.

(8) A tow operator shall accept the following methods of payment for a towing or lifting charge, and no tow operator shall coerce or induce or attempt to coerce or induce a person to use one accepted payment method over another:

(a) commonly accepted credit cards;

(b) commonly accepted debit cards;

(c) contactless payment made using mobile devices; or

(d) cash.

8. Payment of Costs for the Towing of a Vehicle Without the Vehicle Owner's Consent

(1) If a vehicle is towed from land by authorization of a Municipal Law Enforcement Officer, Mobile Compliance Officer, a police officer, or the Director in accordance with this By-law, any and all costs incurred therein shall be at the expense of the vehicle owner.

9. Order

(1) Where a Mobile Compliance Officer or the Director has reasonable grounds to believe that a violation of this By-law has occurred, the Mobile Compliance Officer or Director may issue an Order to the person contravening this By-law in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.

(2) Any person who contravenes an Order under subsection 9(1) of this By-law is guilty of an offence.

10. Inspections

(1) A Mobile Compliance Officer, a police officer, or the Director may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

(a) this By-law; or

(b) an Order made under section 9 of this By-law.

(2) For the purposes of conducting an inspection pursuant to subsection 10(1) of this By-law, a Mobile Compliance Officer, a police officer, or the Director may:

(a) require the production for inspection of documents or things relevant to the inspection;

(b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

(c) require information from any person concerning a matter related to the inspection; and

(d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

(3) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law.

11. Remedial Action

(1) The Town may take remedial action as set out in the Administrative Penalties for Non-Parking Violations and Orders By-law if a person fails to do a matter or thing as directed or required by this By-law, including complying with an Order issued under this By-law.

12. Fees and Charges

(1) Council may, from time to time, impose fees and charges to recover costs in relation to the administration and enforcement of this By-law.

13. Administrative Penalties

(1) A Mobile Compliance Officer, police officer or the Director who finds or has reasonable cause to believe that a person has contravened any provision of this By-law, or its Schedule may issue a penalty notice to the person in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.

(2) Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of $300 or as revised in the Town’s rates and fees schedule.

(3) If a penalty notice under subsection 13(1) of this By-law has been issued and a Mobile Compliance Officer, police officer or the Director has reasonable cause to believe that the same person has contravened the same provisions of this By-law for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Mobile Compliance Officer, police officer or the Director, as the case may be, may issue a second penalty notice to the person.

(4) Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of $400 or as revised in the Town's rates and fees schedule.

(5) If a penalty notice under subsection 13(3) of this By-law has been issued and a Mobile Compliance Officer, police officer or the Director has reasonable cause to believe that the same person has contravened the same provision of this By-law for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Mobile Compliance Officer, police officer or the Director, as the case may be, may issue a third or subsequent penalty notice to the person.

(6) Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of $500 or as revised in the Town's rates and fees schedule.

(7) A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law.

14. Notices

(1) Service of any penalty notice, Order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law.

(2) Any parking penalty notice issued by a Municipal Law Enforcement Officer, Mobile Compliance Officer, police officer or the Director must be affixed to the vehicle in a conspicuous place at the time of the contravention.

15. Adoption and Implementation of a Procedure by the Director

(1) The Director is hereby authorized to adopt and implement a procedure, in addition to the provisions of this By-law, to standardize the towing of vehicles without the vehicle owner's consent under this By-law. The breach of such a procedure is a violation of this By-law.

16. Penalties

(1) Every person who contravenes or fails to comply with any of the provisions of this By-law is guilty of an offence, and pursuant to Section 429 of the Municipal Act, is liable to a maximum fine of $10,000 (ten thousand dollars).

(2) Every person who contravenes any provisions of this By-law is guilty of an offence and upon conviction is liable to a fine of not more than $5,000 (five thousand dollars) as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

17. References

(1) References in this By-law to any legislation or by-law means as may be amended or successor by-laws or legislation, and includes any regulations thereunder.

18. Severability

(1) In the event any provisions of this By-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

19. Title

(1) This By-law may be known as the “Towing Without the Vehicle Owner’s Consent By-law”.

20. Effective Date

(1) This By-law comes into force and effect on February 28, 2025 at 12:01 a.m.

PASSED this 16th day of December, 2024

_____		_____	
Rob Burton	Mayor	Vicki Tytaneck	Town Clerk

Schedule 1 to By-law 2024-187 – SIGNAGE

AUTHORIZED PARKING ONLY



UNAUTHORIZED VEHICLES MAY BE TAGGED AND/OR TOWED AT THE VEHICLE OWNER'S EXPENSE

Name and Telephone # of the Owner of the land or the Owner's employee, agent or contractor

Town By-law #